

THE LAW OFFICE OF

ELISA HYMAN, P.C.

March 12, 2021

BY ECF

Honorable Robert W. Lehrburger

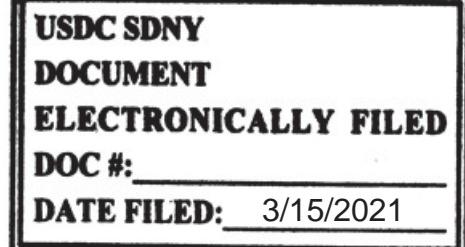
United States District Court - Southern District of New York

Daniel Patrick Moynihan

United States Courthouse

500 Pearl St.

New York, NY 10007



Re: *D.A., et al. v. New York City Department of Education, et al.*,
20-cv-5175 (JMF) (RWL)

Dear Judge Lehrburger:

I represent the Plaintiffs in the above-referenced case. I am writing jointly with Defendants to request a three-week extension of time for the parties to submit the letter to the Court required by Your Honor's order dated February 22, 2021 (ECF No. 36). We propose that the parties submit the letter on April 6, 2021.

Your Honor's order directed, in part, that "Defendants shall assess the extent to which they believe the alleged systemic issues in this case do or do not overlap with the M.G. class action," and, following this process, "[t]he parties shall then meet and confer on that issue as well as whether any non-overlapping systemic issues should be asserted in M.G. or some other class action." *Id.*

Although Mr. McCann and Mr. Thomas have appeared as counsel before Your Honor, given the Court's directive, we believe that Mr. Rauchberg and I must be involved in the above process. As Your Honor is aware, Mr. Rauchberg and I have been engaged in an extensive meet and confer process concerning the ESI protocol and discovery in the M.G. class. Further, Plaintiffs also wish to note, as Your Honor is aware from the related action of *M.W. v. New York City Dep't of Education*, the Defendants changed their policies on pendency a few weeks after the M.G. Plaintiffs filed the Fifth Amended Complaint. While a positive step, these changes have not resolved the delay in implementation. At this point, Plaintiffs in M.G. are in the process of determining whether to (a) seek further amendment to address the new pendency procedures; or (b) seek to dismiss some of the pendency claims that pertain to the Defendants' overall procedures (to the extent that they have changed) and seek to limit the scope of M.G. to questions of pendency that pertain specifically to the children in the subclasses. Since the D.A. Plaintiffs here raise systemic pendency claims, the question of whether these claims overlap to M.G. is relevant.

By the proposed extension date of April 6, 2021, Your Honor will have conferred with me and Mr. Rauchberg with respect to the M.G. discovery/ESI issues and received more information about that process, and the M.G. parties will have reached a decision as to how they will proceed with respect to pendency procedure claims.

Thank you for Your Honor's consideration of the above request.

Respectfully Submitted,

/s/

Elisa Hyman, Esq.
Counsel for the Plaintiffs

Cc: Copatrick Thomas, Esq.
Andrew Rauchberg, Esq.
Assistant Corporation Counsel (via ECF)

SO ORDERED:
3/15/2021


HON. ROBERT W. LEHRBURGER
UNITED STATES MAGISTRATE JUDGE